

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DIONTE MARQUIS NEAL,

Petitioner,

Case Number: 2:13-CV-11768

v.

HON. LAWRENCE P. ZATKOFF

JEFFREY WOODS,

Respondent.

**ORDER DISMISSING PETITION FOR WRIT OF
HABEAS CORPUS WITHOUT PREJUDICE**

Petitioner Dionte Marquis Neal, a state inmate currently incarcerated at the Chippewa Maximum Correctional Facility in Kincheloe, Michigan, filed a habeas corpus petition on April 15, 2013. That petition (First Petition) was assigned to the undersigned District Judge with the case number: 2:13-cv-11699. Approximately one week later, an identical habeas corpus petition (Second Petition) was filed with the Court and assigned to the Honorable Avern Cohn, with the case number: 2:13-cv-11768. The Second Petition was reassigned to the undersigned District Judge, pursuant to Local Rule 83.11, as a companion case to the First Petition. *See* Order Regarding Reassignment of Companion Case, May 3, 2013.

When Petitioner filed the First Petition, he did not submit the \$5.00 filing fee or an application to proceed *in forma pauperis*. The Court, therefore, issued an Order to Correct Deficiency, requiring Petitioner either to pay the \$5.00 filing fee or to submit an application to proceed *in form pauperis*. Petitioner then filed the Second Petition, which was accompanied by the \$5.00 filing fee. The Court concludes that, rather than filing a Second Petition, Petitioner intended

to correct the deficiency in the First Petition by paying the \$5.00 filing fee. Therefore, the Second Petition, which challenges the same conviction and raises the same claims as the First Petition, is duplicative of the First Petition and shall be dismissed without prejudice. *See Davis v. U.S. Parole Commission*, No. 88-5905, 1989 WL 25837 (6th Cir. 1989) (holding that a district court may dismiss a habeas petition when it is duplicative of a pending habeas petition); *Marks v. Wolfenbarger*, No. 2:06-cv-14325, 2006 WL 2850340, *1 (E.D. Mich. Oct. 3, 2006) (Edmunds, J.) (same); *Fuson v. Harry*, No. 06-13211-BC, 2006 WL 2421639, *1 (E.D. Mich. Aug. 22, 2005) (Lawson, J.) (same).

Accordingly, the Court **ORDERS** that the Second Petition (in this case, Case No. 13-11768) be **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: May 20, 2013